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Philip E. Holmes

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NIXON & VANDERHYE, PC  
901 NORTH GLEBE ROAD, 11TH FLOOR  
ARLINGTON, VA 22203

EXAMINER

TIV, BACKHEAN

ART UNIT

PAPER NUMBER

2151

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/868,245	Applicant(s) HOLMES, PHILIP E.	
	Examiner Backhean Tiv	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10/28/05.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 51-88 is/are pending in the application.
- 4a) Of the above claim(s) 1-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 51-88 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Detailed Action***

Claims 51-88 are pending in this application. Claims 1-50 have been cancelled.

This is a response to the RCE filed on 10/28/05.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 54,55,63,65,67,68,69,73,75,76,77, 85, 86 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 54 recites the limitation "the number of all socket connections ". There is insufficient antecedent basis for this limitation in the claim.

Claim 55 recites the limitation "the same client/server relationship". There is insufficient antecedent basis for this limitation in the claim.

Claim 63 recites the limitation "the group consisting ". There is insufficient antecedent basis for this limitation in the claim.

Claim 65 recites the limitation "the establishment and/ or termination ". There is insufficient antecedent basis for this limitation in the claim.

Claim 67 recites the limitation "the group consisting ". There is insufficient antecedent basis for this limitation in the claim.

Claim 68 recites the limitation "the subsistence of the plurality of". There is insufficient antecedent basis for this limitation in the claim.

Claim 69 recites the limitation "the group consisting ". There is insufficient antecedent basis for this limitation in the claim.

Claim 73 recites the limitation "the amount of time". There is insufficient antecedent basis for this limitation in the claim.

Claim 75 recites the limitation "the group consisting". There is insufficient antecedent basis for this limitation in the claim.

Claim 76 recites the limitation "the subsistence of the connections ". There is insufficient antecedent basis for this limitation in the claim.

Claim 77 recites the limitation "the group consisting". There is insufficient antecedent basis for this limitation in the claim.

Claim 85 recites the limitation "the basis of the at least one duration". There is insufficient antecedent basis for this limitation in the claim.

Claim 86 recites the limitation "the same client/server relationship ". There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 51-88 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,790,548 issued to Sistanizadeh et al.(Sistanizadeh) in view of US Patent

6,240,091 issued to Ginzboorg et al.(Ginzboorg) in further view of US Patent 6,351,745 issued to Itakura et al.(Itakura).

As per claims 51,70,78,82,84,85,88, Sistanizadeh teaches an apparatus arranged to use made of connections over a permanently activated communications network link arranged to enable information to be passed between a computer system operated by a user and a computer system arranged to provide the user with content over said permanently activated communications network link, the connections involving at least one client/server relationship comprising a plurality of logical connections(Abstract, Figs.1-22, claim 1), the apparatus comprising: a) computational means for detecting in at least one logical connection of said client/server relationship at least one event causing a change in a state of at least one logical connection defined by at least one client network layer address, a client transport layer address, a server network layer address and a server transport layer address(Abstract, Figs.1-22, claim 1, col.3, lines 47-67);

d) a computer system arranged to provide said user with access to the communications link including: means to monitor changes in the state of the at least one logical connection between the computer system operated by the user and the computer system arranged to provide the user with content, wherein the use of the logical connections provides said content to the user(Fig.2,3, col. 2, lines 65-67, col.6, lines 38-61); and further teaches TCP/IP socket connections(col.3, lines 60-63).

Sistanizadeh however does not explicitly teach b) storage means for recording data created in response to the at least one event detected; and c) means to generate charging data on the basis of the recorded data and basis of the at least one duration; e) means to create the data when the use of the permanently activated communications network link causes at least one of said monitored logical connections to change its state by being generated and/or terminated.

Ginzboorg explicitly teaches c) means to generate charging data on the basis of the recorded data and basis of the at least one duration(Figs.5-12); e) means to create the data when the use of the permanently activated communications network link causes at least one of said monitored logical connections to change its state by being generated and/or terminated(col.3, lines 58-68, col.4, lines 8-17, Figs. 5-12).

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the teachings of Sistanizadeh to charge for access to the Internet and/or for services as taught by Ginzboorg in order to provide a billing method for the use of Internet services(Ginzboorg, col.3, lines 58-67).

One ordinary skill in the at the time of the invention would have been motivated to combine the teachings of Sistanizadeh and Ginzboorg to provide a method to bill the consumer/user for the use of an Internet connection(Ginzboorg, col.3, lines 58-67).

Sistanizadeh in view of Ginzboorg however does not explicitly b) storage means for recording data created in response to the at least one event detected.

Itakura explicitly teaches b) storage means for recording data created in response to the at least one event detected(Figs. 8-12).

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the teachings of Sistanizadeh in view of Ginzboorg to explicitly teach the storage of recorded data in response to an event as taught by Itakura in order to keep track of when a user connects or uses a service provided by the ISP(Itakura, col.2, lines 4-10).

One ordinary skill in the art would have been motivated to combine the teachings of Sistanizadeh, Ginzboorg, and Itakura in order to provide a method of tracking the number of times a user connects or uses a service provided by the ISP(Itakura, col.2, lines 4-10, Ginzboorg, Figs. 5-12).

As per claim 52, 71, 79, wherein the permanently activated communications network link is an xDSL digital subscriber line(Ginzboorg, col.2, lines 14-17). Motivation to combine set forth in claim 51.

As per claim 53, 72, 80, wherein the permanently activated communications network link is an asymmetric digital subscriber line(Ginzboorg, col.2, lines 25). Motivation to combine set forth in claim 51.

As per claim 54, the method as in claim 51, wherein the use of said logical connection comprises the use of a plurality of socket connections, and wherein in said step of recording data a record of the number of all socket connections established and terminated is determined(Sistanizadeh, Figs.1-5, Ginzboorg, Figs. 7-12). Motivation to combine set forth in claim 51.

As per claim 55,86, wherein said plurality of socket connections are at least partially contemporaneous and relate to the same client/server relationship(Sistanizadeh, col.5, lines 28-47).

As per claim 56, the method as in claim 51, wherein the information is passed via a computer system arranged to provide the user with access to the computer system arranged to provide content to the user, and wherein the computer system arranged to provide access to the user acts as a proxy client and a proxy server(Sistanizadeh, Figs.2-3).

As per claim 57, the method as in claim 56, wherein the charging data are generated by the computer system arranged to provide the user with access(Ginzboorg, Fig.7). Motivation to combine set forth in claim 51.

As per claim 58, the method as in claim 56, wherein a monitored logical connection comprises at least one socket connection created between the computer system arranged to provide access to the user acting as proxy server and the computer system operated by the user acting as a client(Sistanizadeh, Figs. 1-7).

As per claim 59, the method as in claim 56, wherein a monitored logical connection comprises at least one socket connection created between the computer system arranged to provide access to the user acting as proxy client and the computer system arranged to provide content to the user acting as a server(Sistanizadeh, Figs. 1-7).



As per claim 60, the method as in claim 51, wherein a computer system arranged to provide access to the user comprises the computer system arranged to provide content to the user(Sistanizadeh, Fig.3).

As per claim 61, the method as in claim 60, wherein the charging data are generated by the computer system arranged to provide content to the user(Ginzboorg, Fig.7). Motivation to combine set forth in claim 51.

As per claim 62, the method as in claim 61, wherein the at least one logical connection comprises a logical connection created between the content provider's computer system acting as a server and the user's computer system acting as a client(Sistanizadeh, Figs. 1-7).

As per claim 63, the method as in claim 51, wherein the recorded data comprises a record of at least one selected from the group consisting of the client network layer address, the client transport layer address, the server network layer address and the server transport layer address(Sistanizadeh, Figs. 1-7).

As per claim 64, the method as in claim 51, wherein the recorded data comprises a record of a period of time relating to the at least one event(Ginzboorg, Fig.7). Motivation to combine set forth in claim 51.

As per claim 65, the method as in claim 51, wherein the at least one event comprises the establishment and/or termination of the at least one logical connection(Ginzboorg, Fig.7). Motivation to combine set forth in claim 51.

As per claim 66, the method as in claim 51, wherein the recorded data comprises a record of a number of logical connections established and terminated(Ginzboorg, Fig.7). Motivation to combine set forth in claim 51.

As per claim 67, 69,75, 77, wherein said at least one header is selected from the group consisting of: all Transmission Control Protocol/Internet Protocol network layer headers, all Transmission Control Protocol/Internet Protocol transport layer headers and all Transmission Control Protocol/Internet Protocol application layer headers(Sistanizadeh, col.3, lines 55-62).

As per claim 68, the method as in claim 51, wherein the recorded data comprises a record of information extracted from at least one header associated with information passing between the computer system arranged to provide content to the user and the computer system operated by the user during the subsistence of the plurality of logical connections(Sistanizadeh, col.3, lines 55-62).

As per claim 73, the apparatus as in claim 70, wherein said charging data is generated from the recorded data on the basis of the amount of time for which each said at least one logical connection comprising a socket connection is established(Ginzboorg, Fig.7). Motivation to combine set forth in claim 51.

As per claim 74, the apparatus as in claim 72, wherein the computer system arranged to provide access to the user acts as a proxy server and a proxy client and is arranged to enable information to be passed between the content providing computer system and the computer system operated by the user(Sistanizadeh, Figs. 1-7).

As per claim 76, the apparatus as in claim 74, wherein the recorded data comprises a record of information extracted from at least one header associated with information passing between the computer system arranged to provide content to the user and the computer system operated by the user during the subsistence of the connections(Ginzboorg, Fig.7). Motivation to combine set forth in claim 51.

As per claim 81, the apparatus as in claim 78, comprising a computer system at an access provider acting as a proxy server and a proxy client whereby the information is passed between the computer system arranged to provide content and the computer system operated by the user, the monitoring being performed by the computer system at the access provider(Sistanizadeh, Figs. 1-7).

As per claim 83, the apparatus as in claim 82 comprising a computer system at an access provider acting as a proxy server and a proxy client whereby the information is passed between the content provider's computer system and the user's computer system, the monitoring being performed by the access provider's computer system(Sistanizadeh, col.20-22).

As per claim 87, the method as in claim 85, wherein a server of the client/server relationship incorporates a server program which incorporates routines to perform the monitoring(Sistanizadeh, col.20-22).

### ***Response to Arguments***

Applicant's arguments with respect to claims 51-88 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

US 6,345,071 issued to Hamdi

US 6,041,356 issued to Mohammed

US 6,714,536 issued to Dowling

US 6,560,203 issued to Beser et al.

US 6,356,282 issued to Roytman

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Backhean Tiv whose telephone number is (571)272-3941. The examiner can normally be reached on 9 A.M.-12 P.M. and 1 -6 P.M. Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2151

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Backhean Tiv  
2151  
1/20/06



**ZARNI MAUNG**  
**SUPERVISORY PATENT EXAMINER**